

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 2879 of 1991

For Approval and Signature:

Hon'ble MR.JUSTICE A.M.KAPADIA

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1. Whether Reporters of Local Papers may be allowed : NO
to see the judgements?
 2. To be referred to the Reporter or not? : NO
 3. Whether Their Lordships wish to see the fair copy : NO
of the judgement?
 4. Whether this case involves a substantial question : NO
of law as to the interpretation of the Constitution
of India, 1950 of any Order made thereunder?
 5. Whether it is to be circulated to the Civil Judge? : NO

MUSLIM COMPOSITE SCHOOL

Versus

STATE OF GUJARAT

Appearance:

MR DF AMIN for Petitioner
MR MA BUKHARI AGP for Respondent Nos.1 to 3
MR MD RANA for Respondent Nos. 4 to 14

CORAM : MR.JUSTICE A.M.KAPADIA

Date of decision: 11/08/2000

ORAL JUDGEMENT

1. By means of filing this petition under Article
226 of the Constitution, the petitioner - Muslim
Composite School, managed by Madrasa-e-Zintul Islam
Society, Upleta, prayed to issue appropriate writ,

direction or order to the respondent - State of Gujarat directing to release grant from the year 1984 as per the decision contained in letter dated September 1, 1987 which is annexed at Annexure 'B'.

2. In the petition the petitioner mentioned about the strength of students, teachers and various correspondence made with the Government with regard to releasing the grant in favour of the school and since the action of the Government in not releasing the grant in favour of the school is against the avowed policy of Literacy Campaign of the State Government, the petitioner filed the petition for the relief to which reference is made earlier.

3. Respondent No. 1 - State of Gujarat contested the petition by filing affidavit in reply filed by Under Secretary to the State of Gujarat in Education Department, which was sworn long back on December 20, 1991 and copies whereof were supplied to the advocate for the petitioner in the same year. But the same is tendered in the Court today, wherein, inter alia, it is contended that the petitioner institution does not fulfil any of the basic requirements and time and again it has been requested to follow the order of the Government. However, inspite of that it has been revealed from the inspection report submitted by the District Education Officer, Rajkot that certain irregularities were found which were pointed out to the petitioner school but since the school does not fulfil any of the basic requirements the petitioner school cannot be given any grant.

4. The petitioner filed affidavit in rejoinder, wherein, it controverted the averments made in the affidavit in reply filed by the respondent No.1 - State of Gujarat.

5. When the matter is called out today, Mr. D.F. Amin, learned advocate for the petitioner, Mr. M.A. Bukhari, learned A.G.P. for respondent Nos.1 to 3 and Mr. M.D. Rana, learned advocate for respondent Nos.4 to 14 are present.

6. Learned advocates appearing for the parties made joint statement that after filing of the petition the petitioner school has been closed for the last two years and necessary permission envisaged under the Gujarat Primary Education Act, 1947 ('the Act' for short) and Rules framed thereunder has been granted by the Director of Primary Education to close down the school.

7. Mr. M.D. Rana, learned advocate for the respondent Nos.4 to 14 has also informed this Court that the said order issued by the Director of Primary Education to close down the school is under challenge by filing separate petition at the instance of the teachers who were at the relevant time serving in the school.

8. Having perusal of the pleadings made by the parties and more particularly in view of the joint statement made at the bar by the learned advocates appearing for the parties, I am of the opinion that since the school has been closed down after obtaining necessary permission envisaged under the Act and the Rules, this petition now does not survive. However, it would be open for the petitioner school to approach the Government for releasing the grant for the aforesaid period as per the prayer made in the petition by making representation to the Government as per the decision taken by the Government vide letter dated September 1, 1987. If such representation is made, Government will consider the same in accordance with law and decide it as expeditiously as possible.

9. In view of the above, the petition fails and it is rejected with no order as to costs. Rule is discharged.

11.8.2000. (A.M. Kapadia, J.)
